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October 3, 2006

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station
Boston, MA 02110

Re: Bay State Gas Company, D.T.E. 06-31

Dear Ms. Cottrell:

Enclosed for filing, on behalf of Bay State Gas Company ("Bay State"), please find Bay State's supplemental confidential response to AG-3-3.

Also enclosed is a Motion for a Protective Order. The Attachment to this response contains confidential and proprietary information and is subject to the non-disclosure agreement executed by the parties.

Please do not hesitate to telephone me or Patricia M. French, 508-836-7394, with any questions.

Very truly yours,

Robert L. Dewees, Jr.

RLD/tlm
Enclosure

cc: Caroline Bulger, Esq., Hearing Officer
Service List

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

RESPONSE OF BAY STATE GAS COMPANY TO THE
THIRD SET OF INFORMATION REQUESTS FROM THE ATTORNEY GENERAL
D.T.E. 06-31

Date: October 3, 2006

Responsible: Stephen H. Bryant, President

**SUPPLEMENTAL
CONFIDENTIAL RESPONSE:**

AG 3-3: Please refer to the AG 2-5, which states:

AG 2-5: Did any Company employee receive any bonus or incentive compensation for meeting the budget targets described in the response to AG-2-4? If yes, please identify the employee, the amounts of the bonus or incentive compensation, and the cost category associated with the award.

Please refer to the Company's response to AG 2-5, where the Company states, in part: "Company employees do not receive incentive payments for meeting their respective budgets under the *current* NiSource incentive plan structure. Under the *current* plan, NiSource must meet a pre-established financial trigger tied to basic earnings per share from continuing operations ('EPS')." (emphasis added).

- a) When was the "current" NiSource incentive plan implemented?
- b) From 1999 to the present, were there other NiSource bonus or incentive plans? If yes, then answer AG 2-5 with respect to those earlier incentive and bonus plans.
- c) Did Bay State maintain its own bonus and incentive plan from 1999 – 2006? If yes, then answer AG 2-5 with respect to those earlier incentive and bonus plans.
- d) For the years 1999 to 2006, please state the bonus and incentive Compensation received by Dan Cote, Steven Bryant, Keith Dalton, and Shawn Patterson, from Bay State and NiSource.
- e) Explain in detail why each individual in the response to AG 3-3(d) qualified for the bonus or incentive compensation. Include in this response any budget target or cost cutting bonus and incentive compensation awarded.

RESPONSE:

- (a) The Attorney General has attached unintended significance to the

word "current" in Bay State's response to AG-2-5. While there have been modifications to the NiSource incentive compensation plan, for the purposes of the Attorney General's question, the word "current" is irrelevant. Under each of the preceding plans, as well, NiSource had to meet a pre-established financial trigger tied to basic earnings per share from continuing operations ("EPS") for any employee or manager to receive a payout as incentive compensation.

- (b) See (a).
- (c) Bay State maintained its own bonus and incentive plan payouts until 1998. Following that time, such matters were consolidated at NiSource. No information exists regarding 1999 payouts under the 1998 plan.
- (d) The Company is in the process of researching the questions of bonuses paid for Messrs. Cote, Bryant and Dalton. Shawn Patterson was not an employee of Bay State during this period, nor did he play a role in the management of Bay State.
- (e) Annual incentive compensation is designed to be awarded to eligible employees based on two factors: (1) the trigger for incentive compensation payouts is met in the given year; and, (2) each employee meets their respective individual performance management criteria, which includes meeting the requirements of their position with regard to service and management.

**SUPPLEMENTAL
CONFIDENTIAL RESPONSE:**

- (d) Please see Attachment AG-3-3 SUPPLEMENT CONFIDENTIAL for the bonus (e.g., Spot Award) and annual incentive compensation paid to Messrs. Cote, Bryant and Dalton for the period 2002 through current.

Attachment AG-3-3 SUPPLEMENT CONFIDENTIAL is confidential because it provides employee-specific information. Accordingly, the material is provided in single copy to the Hearing Officer under a Motion for Protective Treatment and may be provided to any other party upon execution of a mutually-agreeable confidentiality agreement.

As noted above, Mr. Patterson was not an employee of Bay State during this period, nor did he play a role in the management of Bay State. Therefore, the Company did not provide Mr.

Patterson's bonus or incentive-related data as part of this response. The Company notes that due to a change in payroll accounting systems during 2001-2002, the Company does not readily have the requested data for the years 1999–2001. Bay State continues to research this issue, and will provide such data as it becomes available.

- (e) Regarding annual incentive compensation, the payout is based on the following - 2/3 associated with overall *corporate* performance and 1/3 associated with overall *employee* performance. Regarding Spot Awards, these awards may be related to achieving specific business results or for exceptional overall employee performance. 100% of the Spot Award is considered discretionary by the awarding manager.

**THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Bay State Gas Company)
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_____)

D.T.E. 06-31

**MOTION OF BAY STATE GAS COMPANY
FOR A PROTECTIVE ORDER
OVER ATTACHMENT SUPPLEMENTAL CONFIDENTIAL AG 3-3**

I. INTRODUCTION

Bay State Gas Company ("Bay State") requests that the Department of Telecommunication and Energy ("Department") grant protection from public disclosure, pursuant to G.L. c. 25, § 5D, for the supplemental confidential attachment to the response to AG 3-3, because the attachment includes confidential information.

In support of its request for a protective order, Bay State states as follows.

II. LEGAL STANDARD

Confidential information may be protected from public disclosure in accordance with G.L. c. 25, § 5D, which states in part that:

The [D]epartment may protect from public disclosure, trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be on the proponent of such protection to prove the need for such protection. Where the need has been found to exist, the [D]epartment shall protect only so much of the information as is necessary to meet such need.

The Department has frequently protected sensitive market information, and has determined that competitively sensitive information, such as price terms, can be protected.

Standard of Review for Electric Contracts, D.P.U. 96-39, at 2 (1996). The Department has determined that price terms should be protected in gas supply contracts, including “reservation fees or charges, demand charges, commodity charges and other pricing information”. Colonial Gas Company, D.P.U. 96-18, at 4 (1996). The Department has also determined that information which, if disclosed publicly, could have a chilling effect on bidding processes, such as responses to Requests for Proposal (“RFP”), should be protected. Finally, the Department is authorized to protect trade and business secret information, particularly of non-participating third parties. G.L. c. 25, § 5D.

III. THE MATERIALS ARE PROPRIETARY AND CONFIDENTIAL AND WARRANT PROTECTION FROM DISCLOSURE

A. Bay State’s Response to AG 3-3 labeled Attachment AG 3-3 SUPPLEMENTAL CONFIDENTIAL, is Appropriately Protected from Public Disclosure.

AG 3-3: Please refer to the AG 2-5, which states:

AG 2-5: Did any Company employee receive any bonus or incentive compensation for meeting the budget targets described in the response to AG-2-4? If yes, please identify the employee, the amounts of the bonus or incentive compensation, and the cost category associated with the award.

Please refer to the Company's response to AG 2-5, where the Company states, in part: “Company employees do not receive incentive payments for meeting their respective budgets under the *current* NiSource incentive plan structure. Under the *current* plan, NiSource must meet a pre-established financial trigger tied to basic earnings per share from continuing operations (‘EPS’).” (emphasis added).

- a) When was the “current” NiSource incentive plan implemented?
- b) From 1999 to the present, were there other NiSource bonus or incentive plans? If yes, then answer AG 2-5 with respect to those earlier incentive and bonus plans.
- c) Did Bay State maintain its own bonus and incentive plan from 1999 – 2006? If yes, then answer AG 2-5 with respect to those earlier incentive and bonus plans.

- d) For the years 1999 to 2006, please state the bonus and incentive Compensation received by Dan Cote, Steven Bryant, Keith Dalton, and Shawn Patterson, from Bay State and NiSource.
- e) Explain in detail why each individual in the response to AG 3-3(d) qualified for the bonus or incentive compensation. Include in this response any budget target or cost cutting bonus and incentive compensation awarded.

Attachment AG-3-3 SUPPLEMENTAL CONFIDENTIAL contains confidential employee incentive compensation information. This information is considered to be confidential to the employees listed in the attachment and should not be disclosed publicly. The materials are not disseminated widely throughout Bay State. Further, there would be no public benefit in disclosure of this material. Accordingly, because this material is held confidentially within Bay State and includes employee compensation information, protection is proper under G.L. c. 25, § 5D.

IV. CONCLUSION

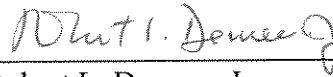
For the reasons set forth above, Bay State requests that the Department protect from public disclosure Attachment AG 3-3 SUPPLEMENTAL CONFIDENTIAL.

Respectfully submitted,
BAY STATE GAS COMPANY
By its attorneys,



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Dated: October 3, 2006